

# LICENSING AND ENFORCEMENT DIVISION



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**T**he Licensing and Enforcement Division is responsible for issuing and amending licenses granting authority to conduct business under the following acts: Consumer Financial Services Act; Credit Card Act; Mortgage Brokers, Lenders, and Servicers Licensing Act; Motor Vehicle Sales Finance Act; Regulatory Loan Act; Sale of Checks Act; and Secondary Mortgage Loan Act.

The division is also responsible for initiating enforcement actions against licensees in accordance with the statutes noted above and the Michigan Administrative Procedures Act. Additionally, the division is responsible for handling complaints filed by consumers against licensees.

## CONSUMER FINANCIAL SERVICES ACT

The Consumer Financial Services Act, Act No. 161 of the Public Acts of 1988, as amended, provides for the licensing and regulation of institutions which provide a variety of financial services, and eliminates the need to acquire a separate license for each activity. A "Class II" license authorizes services under the Regulatory Loan Act, Motor Vehicle Sales Finance Act, Secondary Mortgage Loan Act, and Credit Card Act. A "Class I" license authorizes services under the Sale of Checks Act and Mortgage Brokers, Lenders, and Servicers Licensing Act in addition to the authorities provided under a Class II license.

A Class I license under the act requires a bond of \$125,000.00 plus \$3,000.00 for each Sale of Checks agent up to \$250,000.00, and a minimum net worth of \$100,000.00. A Class II license requires a bond of \$25,000.00, and a minimum net worth of \$50,000.00.

There were 154 offices operating under a Class I license and 68 offices operating under a Class II license at year-end 1998. This compares to 124 Class I licensees and 67 Class II licensees as of December 31, 1997.

## CREDIT CARD ACT

The Credit Card Act, Act No. 379 of the Public Acts of 1984, as amended, authorizes the licensing and regulation of non-depository issuers of credit cards. A minimum net worth of \$1,000,000 is required by the act. The Commissioner may establish a higher net worth requirement if it is necessary to assure a safe and sound operation. There are no bonding requirements.

Four companies were licensed under the act as of December 31, 1998, doubling the number from year-end 1997.

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## **MORTGAGE BROKERS, LENDERS, AND SERVICERS LICENSING ACT**

The Mortgage Brokers, Lenders, and Servicers Licensing Act, Act No. 173 of the Public Acts of 1987, as amended, provides for licensing, registration, and regulation of mortgage brokers, mortgage lenders, and mortgage servicers. The act pertains to loans secured by first mortgages or land contracts covering real property located in the state of Michigan, which is used, or improved to be used, as a dwelling and designed for occupancy by four or fewer families. Licensees are typically required to have a minimum net worth ranging from \$25,000.00 to \$100,000.00 and must generally post a bond, letter of credit, or certificate of deposit in amounts ranging from \$25,000 to \$125,000.00, depending on the type of services being offered.

There were 952 licensees and 261 registrants at year-end 1998. This compares to 715 licensees and 238 registrants as of December 31, 1997.

## **MOTOR VEHICLE SALES FINANCE ACT**

The Motor Vehicle Sales Finance Act, Act No. 27 of the Public Acts of 1950, as amended, regulates certain installment sales of motor vehicles. It provides for licensing and regulation of both the installment sellers, who are motor vehicle dealers originating installment sales contracts, and sales finance companies, the financial institutions that purchase these contracts from the dealers. The act requires bonding of sales finance companies ranging from \$5,000.00 to \$20,000.00 for main offices, plus \$10,000.00 for each branch office. Installment sellers do not have a bonding requirement. The act imposes no net worth requirements on installment sellers or sales finance companies.

As of December 31, 1998, there were 2,165 dealers licensed as installment sellers, down from 2,214 at year-end 1997. There were 868 sales finance companies (including depository financial institutions) at the end of 1998, declining from 963 at year-end 1997.

## **REGULATORY LOAN ACT**

The Regulatory Loan Act, Act No. 103 of the Public Acts of 1963, as amended (successor to Act No. 317 of the Public Acts of 1921, the Small Loan Act), authorizes the licensing and regulation of entities which make personal loans to consumers. The act prohibits the use of real estate as security for these loans. The act has no bonding requirement, however, licensees are required to maintain \$50,000.00 in liquid assets.

There were 51 licensees at year-end 1998, up slightly from 47 on December 31, 1997.

## **SALE OF CHECKS ACT**

The Sale of Checks Act, Act No. 136 of the Public Acts of 1960, as amended, authorizes the licensing and regulation of the business of selling and issuing travelers checks, drafts, and money orders as a service or for a fee. The act also regulates telegraph companies which transfer funds by wire. The act requires a \$100,000.00 minimum net worth and a minimum bond of \$100,000.00 plus \$3,000.00 for each agent up to a maximum of \$250,000.00.

At the end of 1998, there were 21 sale of checks licensees, no change from year-end 1997.

## **SECONDARY MORTGAGE LOAN ACT**

The Secondary Mortgage Loan Act, Act No. 125 of the Public Acts of 1981, as amended, authorizes the licensing, registration and regulation of entities which make secondary mortgage loans for

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personal, family, or household purposes. The act also allows for loans secured by other collateral in addition to real property. Licensees must generally post a bond or letter of credit in an amount ranging from \$25,000 to \$125,000, depending on the type of services being offered.

There were 27 licensees and 404 registrants under the act as of December 31, 1998, compared to 431 licensees and 56 registrants at year-end 1997. This shift from licenses to registrations during the year was a result of amendments made to the act in 1997.

## **LICENSING TRENDS**

The division has seen an approximate 14% increase in the total number of licensees and registrants under the Mortgage Brokers, Lenders and Servicers Licensing Act and the Secondary Mortgage Loan Act in 1998, which is in addition to a 25% increase in 1997. Continued low mortgage interest rates and the resulting volume of refinance activity have been major contributing factors to the increase in licensing activity. In addition, amendments made to the Secondary Mortgage Loan Act in 1997 continue to make secondary mortgage brokering and lending attractive opportunities for financial services companies doing business in Michigan.

## **STAFF TRAINING**

During the year, all division staff members received training in new computer software programs implemented by the Bureau. Training sessions were offered in word processing, spread sheet applications, and presentation software. Staff members also attended various training conferences offered by the National Association of Consumer Credit Administrators, American Association of Residential Mortgage Regulators, Federal Financial Institutions Examination Council, Association of Certified Fraud Examiners,

and Department of Civil Service. Training sessions for administrative support staff and management personnel were also conducted by the Bureau during the year.

## **Y2K COMPLIANCE**

As part of the license application process, most applicants must provide a brief description of the steps they are taking to ensure that their computer systems will be year 2000 compliant.

## **SURVEYS**

As part of the division's continuing effort to streamline the mortgage license application process, a survey was mailed to approximately 700 recent license applicants. The survey requested that respondents provide their input concerning the ease of the application process and use of the application forms. The Anderson Economic Group, an independent consulting firm, was retained by the Bureau to accumulate and analyze the surveys. During 1999, the division will be reviewing the survey results and implementing appropriate changes to streamline and improve the license application process.

## **FIB WEB SITE**

During 1998, the division made available on the Bureau's web site complete listings of active licensees and registrants under the Mortgage Brokers, Lenders and Servicers Licensing Act, Secondary Mortgage Loan Act, Consumer Financial Services Act, Regulatory Loan Act, and Sale of Checks Act.

Applications for licensure or registration under the Mortgage Brokers, Lenders and Servicers Licensing Act and the Secondary Mortgage Loan Act are available on the Bureau's web site. Applications for licensure under the Motor Vehicle Sales Finance Act and Regulatory Loan Act are also available on the site. Access via the Internet to

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applications under the remaining acts is being planned. The Bureau's consumer complaint form is also available on the web site.

## **ENFORCEMENT ACTIVITIES**

Various enforcement actions were taken during the year which resulted in license revocations and surrenders, as well as application denials and withdrawals. Please see the Examination Division narrative for further details.

As of December 31, 1998, the division had one enforcement action pending. An administrative hearing on this matter has been scheduled for 1999.

### **FIRSTPLUS FINANCIAL, INC. DBA FIRSTPLUS DIRECT**

On August 19, 1998, the Commissioner issued a 'Notice of Intention to Issue an Order to Cease and Desist and Notice of Hearing' against Dallas, Texas-based FirstPlus Financial, Inc. (FirstPlus). The Notice alleged that FirstPlus had been making false, misleading and deceptive solicitations to the public on second home mortgages. The solicitations stated that consumers would be eligible for a second mortgage of a specific

amount even though the company had not verified whether or not the consumers were eligible for a second mortgage. In several instances, the consumer receiving the solicitation had no interest in the property being used as collateral for the loan. The Notice also alleged that FirstPlus was engaging in mortgage activities using a name which had not been approved by the Bureau. On March 3, 1999, the Commissioner issued a 'Consent Order' in this matter. Under terms of this settlement FirstPlus agreed that it would not use false, misleading or deceptive advertising regarding mortgage loans or the availability of mortgage loans, and that it would only conduct business using names licensed by the Bureau. FirstPlus also agreed to pay \$20,000 for investigative and administrative costs incurred by the Bureau.

## **COMPLAINT ACTIVITIES**

During 1998, the division received 550 written complaints filed against licensees by consumers and creditors, a 70% increase over 1997. As in the past, the majority of these complaints were filed against mortgage companies. Many of these complaints involved problems with the mortgage application process. More than 30 complaints resulted from loan solicitations mailed by mortgage companies. Seventy-four of the complaints were filed against motor vehicle licensees, up 40% from 1997.

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# **LICENSEES**

**AS OF DECEMBER 31**

	1998	1997
<b>CONSUMER FINANCIAL SERVICES ACT</b>		
Number of Class I licensees	154	124
Number of Class II licensees	68	67
<b>CREDIT CARD ACT</b>		
Number of licensees	4	2
<b>MORTGAGE BROKERS, LENDERS, AND SERVICERS LICENSING ACT</b>		
Number of licensees	952	715
Number of registrants	261	238
<b>MOTOR VEHICLE SALES FINANCE ACT</b>		
Number of sales finance licensees	868	963
Number of installment seller licensees	2,165	2,214
<b>REGULATORY LOAN ACT</b>		
Number of licensees	51	47
<b>SALE OF CHECKS ACT</b>		
Number of licensees	21	21
<b>SECONDARY MORTGAGE LOAN ACT</b>		
Number of licensees	27	431
Number of registrants*	404	56

\*Shift from licensees to registrants is a result of amendments made to the act in 1997.